



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Honorable Tom L. Hartley
Criminal District Attorney
Edinburg, Texas

Dear Sir:

Opinion No. 0-3699

Re: Whether owner of oil and gas lease may clear leasehold interest of tax lien by paying a proportionate part of taxes assessed against the land as a whole prior to execution of lease.

In your letter of June 13, 1941, you submit to us the following facts:

"We have the following situation existing in several delinquent tax suits which have been filed on behalf of the State of Texas, county of Hidalgo; the taxes are delinquent from 1930 to 1940, inclusive. The Sun Oil Company acquired an oil and gas lease on the property involved in 1935, said lease being for the regular seven-eighths interest, the lessor reserving a one-eighth interest. Each year since the Sun Oil Company acquired this lease, it has rendered its leasehold estate and has paid taxes on it. Said oil company now maintains that it is entitled to pay a part of the taxes for the years from 1930 to 1935, basing its payment on the value of its leasehold interest. It contends that if it pays said proportionate part of the taxes, the State and County can not foreclose its lien as to the Sun Oil Company."

You request our opinion as to whether or not the lessee, under the circumstances set out above, can pay a part

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of the taxes for years prior to the acquisition of its lease in proportion to the value of its leasehold estate and thus be relieved from a foreclosure of the ad valorem tax lien against it.

It being specially noted that the taxes in question were assessed against the whole interest in the land prior to the execution of the oil and gas lease, it is our opinion that said lessee may not discharge the lien against the leasehold estate by paying only a part of the taxes assessed against the land prior to the execution of the lease and the severance of the leasehold estate. Accordingly we answer your question in the negative. We enclose copies of our Opinions Nos. 0-928 and 0-1296 from which our reasons for the answer given you fully appear. We also enclose copy of Opinion No. 0-2366 which answers another question suggested in your letter.

Yours very truly

ATTORNEY GENERAL OF TEXAS

By *Glenn R. Lewis*
Glenn R. Lewis
Assistant

APPROVED JUL 7, 1947

Tom L. Hartley
FIRST ASSISTANT
ATTORNEY GENERAL

ORL:lh

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